

REMARKS

Claims 27, 29-42, 44-46, 48-50, and 52-54 are pending in the application.

Claims 27, 29-42, 44-46, 48-50, and 52-54 stand rejected.

Claims 27, 41, 42, 46, and 50 have been amended. Support for these amendments can be found, at least, in paragraph 44. No new matter has been added.

Rejection of Claims under 35 U.S.C. § 101

Claims 50-52, 54 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter. Applicants respectfully traverse this rejection.

With respect to claim 50, the Examiner states: “The claim language does not describe any functionality to occur since the sequence of functionality is not necessarily executed. In this instant, a computer-readable medium itself, by definition, is not capable of performing any kind of functionality.” Office Action, p. 3. The Examiner’s statement appears to imply that, because the program instructions encoded on a computer readable medium are not necessarily executed, the computer readable medium encoding the program instructions cannot be statutory subject matter. However, this reasoning is akin to stating that because an electronic device is not necessarily plugged in and powered on (and thus is not necessarily performing its intended function), that electronic device cannot be statutory subject matter, which is clearly not the case. Apparatus claims differ from method claims in that apparatus claims recite structure (such as a computer readable medium that encodes program instructions) for performing a function while method claims recite the function itself. Apparatus claims cover the apparatus described in the claims, regardless of whether the apparatus is ever used to perform the function it is designed to perform. Accordingly, just because the program instructions are not necessarily executed has no bearing on whether the computer readable medium encoding the program instructions is statutory subject matter.

Furthermore, computer readable media claims have long been recognized as statutory. As noted in the Patent Office’s “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility” (October 26, 2005) (“Interim Guidelines”), “a claimed computer-readable medium encoded with a computer program is a computer element which

defines structural and functional interrelationships between the computer program and the rest of the computer which permit the computer program's functionality to be realized, and is thus statutory." *See* Interim Guidelines, Annex IV (citing *In re Lowry*, 32 F. 3d 1579, 1583-84 (Fed. Cir. 1994)). Accordingly, claims 50-52 and 54 are clearly statutory. As such, Applicants respectfully request the withdrawal of this rejection.

Rejection of Claims under 35 U.S.C. § 102

Claims 27, 29-30, 32-42, 44-46, 48-50, 52-54 are rejected under 35 U.S.C. § 102(a) as being anticipated by Miyata et al. (U.S. Publication No. 2003/0225972).

With respect to claim 27, the cited art fails to anticipate, teach, or suggest "a request to perform an operation on a first set of locations of a plurality of locations in a storage area." The Office Action cites FIG. 11 and paragraphs 87-88 of Miyata as teaching this feature, stating: "perform a copy duplicate operation in response to a request from client computer." Office Action, p. 4.

FIG. 11 does not show or suggest any request to perform an operation on a particular set of locations in a storage area. Instead, "FIG. 11 is a flowchart for registering/resetting the duplicating function." Miyata, paragraph 87. Paragraphs 87-88 describe FIG. 11. These paragraphs describe how the method illustrated in FIG. 11 determines a file or directory for registering/resetting the duplicating function. The method of FIG. 11 does not appear to be performed in response to a request, nor does this method appear to be performed on a set of locations.

Furthermore, since the registering/resetting of FIG. 11 is performed for files and directories (as opposed to being performed on data at a location within a storage area), it seems quite unlikely that the method FIG. 11 would be performed in response to a request like the one specified in claim 27. Operating on a file or directory is quite different than operating on a physical location. Claim 27 describes a request that an operation be performed on a particular set of locations (as opposed to requesting that an operation be performed on a particular file or directory). Thus, no request to perform an operation on locations of a storage device is taught or suggested in this section of Miyata, which describes performing registering/resetting for files or directories. For at least this reason, Miyata does not anticipate claim 1.

Additionally, the cited art does not teach or suggest “performing the operation upon a given location in the first set of locations of the plurality of locations in the storage area only if the given location is described in at least one location description of a sieve associated with the operation, wherein the sieve comprises the at least one location description and a corresponding property identifying the operation, wherein the at least one location description identifies each location within the storage area upon which the operation can be performed,” as recited in amended claim 27. In other words, the cited art does not teach or suggest performing an operation on a location if the sieve that describes the operation identifies the location as being one of the locations within the storage area upon which the operation can be performed.

The Office Action equates the block attribute fields 202 and 203 of FIG. 2 with the location description of claim 27. Office Action, p. 4. These block attribute fields each contain one or more bits that represent an attribute. Miyata, paragraph 42. As shown in FIG. 2, each attribute field is associated with a single logical block address (LBA). Accordingly, each block attribute field is associated with a single LBA and identifies the attribute(s) of that LBA. Since each block attribute field represents only a single LBA and since different block attribute fields can contain the same bit sequences (e.g., as shown by the block attribute bit fields of LBAs 1-4 of FIG. 2 having the same value), Miyata’s system allows multiple block attribute fields to identify their corresponding LBAs as having the same attributes. Accordingly, a given block attribute field clearly does not identify all locations that have the same attribute. Furthermore, the cited portions of Miyata indicate that Miyata’s block attribute field identifies attributes, not operations. Thus, Miyata’s system similarly does not teach or suggest a location description like that recited in amended claim 27, which identifies each location within a storage area upon which an operation can be performed.

Furthermore, the cited portions of Miyata clearly do not teach or suggest not a sieve like that recited in amended claim 27. In particular, Miyata does not teach or suggest a sieve that is associated with an operation and that includes both a property, which identifies the operation, and a location description that identifies each location within a storage area upon which the operation (as identified by the property) can be performed.

Accordingly, Applicants submit that claim 27 is patentable over the cited art. Applicants submit that these arguments apply with equal force to independent claims 42, 46, and 50. Thus,

independent claims 27, 42, 46, and 50 are allowable for at least the foregoing reasons. The respective dependent claims 29-30, 32-41, 43-45, 47-49, 51-54, and 58-61 are allowable for at least the same reasons that claims 27, 42, 46, and 50 are allowable.

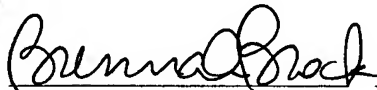
Rejection of Claims under 35 U.S.C. § 103

Claim 31 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Miyata et al. (U.S. Publication No. 2003/0225972) as applied to claim 27, and further in view of Krishnamurthy (U.S. Patent No. 6,823,436). Claim 31 is patentable over the cited art for at least the foregoing reasons presented above with respect to claim 27.

CONCLUSION

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephone interview, the Examiner is invited to telephone the undersigned at 512-439-5087.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 13, 2006.

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Attorney for Applicants Date of Signature

Respectfully submitted,



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